IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.39 OF 1997

Bajaj Auto Employees' Union
497 Old Kirkee Bazar, Kirkee
Pune .. .. Petitioner

Versus

Bajaj Auto Limited Akruit
Pune. & Ors. .. .. Respondents

Mr.N.A.Kulkarni for petitioner
None for respondents

CORAM : P.V.KAKADE, J.

DATE : 3RD MARCH 2006

ORAL JUDGMENT :

1. The petitioner has impugned the order dated 11.12.1996 passed by Industrial Court, Pune issuing direction to the petitioner to pay the amount deducted by them towards the Earthquake Relief Fund to the Government or C.M. Relief Fund and with further direction that the amount deducted from 1370 workers be paid to the respondent Bharatiya Kamgar Sena within stipulated period.

2. I have heard the learned counsel for the petitioner, none appears for the respondents.

3. The Industrial Court decided the Compliant (ULP) No.586/93, Complaint (ULP) No.589/93 and Complaint (ULP) No.302/94, out of which first two complaints were filed by Bharatiya Kamgar Sena and third complaint was filed by Bajaj Auto Employees Union under Item 9 and 10 of Schedule IV of the MRTU & PULP Act, 1971 alleging that respondents had committed unfair labour practices as alleged in the Complaint (ULP) No.589/93 and Complaint (ULP) No.586/93 filed by Bharatiya Kamgar Sena under Item 9 and 10 of Schedule IV of the Act alleged that the respondent had committed an unfair labour practice by deducing Rs.10/= from the workman towards earth quake relief fund. In Complaint (ULP) No.586/93 the Union has alleged that the settlement signed between the respondent nos.1 and 2 dated 18.10.93 was illegal and void-ab-initio and the amount recovered from the workers and deducted from their adhoc payment as per clause 37 dated 18.10.93 was illegal and therefore respondent be directed to return the said amount.

4. The Industrial Court proceeded to adjudicate the dispute on the basis of available evidence on record and recorded finding to the effect that all the complaints were not proved and therefore were liable to be dismissed. However, while recording the operative order it was directed that Complaint ULP No.586/93 was dismissed, also the Complaint ULP No.302/94 dismissed. However, Complaint No.589/93 was partly allowed, which order is contrary to the finding recorded to the issue framed in this regard. In fact the finding was recorded in respect of Complaint No.589/93 for unfair labour practice as alleged by the complainant was proved as contemplated under Item 9 and 10 of Schedule IV of the said Act.

. Inspite of this position, the petitioner company was directed to pay the amount to the Government or C.M.Fund or to earthquake relief fund and also order passed to the effect that the amount be returned to the workers of Bharatiya Kamgar Sena. Therefore, it is submitted that these orders are ex-facie contrary to the reasoning recorded by the Industrial Court. Moreover, after hearing the learned counsel for the petitioner I am satisfied that no settlement was proved which was

allegedly on the basis of oral agreement entered into between Mr. Balasaheb Thakaray and Rahulkumar Bajaj. The finding recorded regarding the settlement which was based on alleged oral agreement appears to be erroneous as the evidence on record is clearly contrary to the allegations that there was oral agreement between the said two persons. Since the said oral agreement itself is not proved than there is no question of issuance direction to the present petitioner for making such payment. It is also pertinent to note that when 1370 workers who had accepted the settlement entered into between the petitioner Union and the Respondent no.1 dated 18.10.1993 as it is and in toto; then they cannot be exempted from paying the donation to the petitioner union, who had taken efforts for reaching into the settlement with the respondent no.1. Therefore, in view of these aspects, the order passed by Industrial Court appears to be beyond its jurisdiction and therefore, is rendered illegal.

4. For the reasons recorded above, I hold that the petitioner has proved that they are not liable to make such payment as directed and therefore, the rule is made absolute and the petition is allowed in terms of prayer

clauses (a) and (b). The petition stands disposed of with no order as to costs.